

## **EXHIBIT 18**

**In the Matter Of:**

*In Re - Google Antitrust Litigation*

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[REDACTED]

*August 11, 2021*

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1 A. Can I talk with counsel?

2 Q. Sure.

3 MR. NAKAMURA: Let's go off the record.

4 THE VIDEOGRAPHER: Off the record at

5 1:46 p.m.

6 (Off the record, 1:46 p.m. to 1:52 p.m.)

7 THE VIDEOGRAPHER: Back on the record at

8 1:52 p.m.

9 BY MR. NAKAMURA:

10 Q. So I understand that you have consulted  
11 with your counsel. Is that correct, [REDACTED]?

12 A. Yes.

13 Q. And so I ask again, what is the Stonehenge  
14 program?

15 A. Yeah. The Stonehenge program is -- it's  
16 an assessment of the implications of antitrust  
17 inquiries that are underway.

18 Q. And with which lawyers did you discuss the  
19 Stonehenge program?

20 A. With Ted Janis. I'm sorry. Ted Lazarus.  
21 I'm sorry.

22 Q. Any other lawyers?

23 A. Yes, there were other lawyers involved in  
24 there as well, but they're not coming to mind.

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1 Q. And when did you have this discussion with  
2 Mr. Lazarus regarding the Stonehenge program?

3 A. I believe this was last summer, and it's  
4 continued through the present.

5 Q. So you initially had this discussion with  
6 Mr. Lazarus regarding the Stonehenge program in  
7 summer 2020. Is that correct?

8 A. That's my best guess. It may have been  
9 earlier, but that's my recollection of when the  
10 work for Stonehenge was done.

11 MR. NAKAMURA: Gordon, could you load in  
12 the chat Document 46, please.

13 Q. So same instruction, [REDACTED]. If you  
14 could download that document and let me know when  
15 you've reviewed it.

16 MR. NAKAMURA: In the meantime, I'll ask  
17 the court reporter to mark this document as  
18 [REDACTED] Exhibit 7. This is a document produced  
19 by Google with the Bates number beginning  
20 GOOG-DOJ-12766025, ending in Bates Number -6028.

21 (Exhibit 7 marked for identification)

22 Q. And let me know when you're done reviewing  
23 this document.

24 A. Okay.

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1 Q. So let's turn to the second page of the  
2 PDF ending in Bates Number 026 to the email on  
3 February 19th, 2020, from [REDACTED]. Do you  
4 see that?

5 A. Yup.

6 Q. What was the Single Click program?

7 A. That was an assessment of implications and  
8 options that -- in response to potential  
9 regulatory inquiries.

10 Q. And do you see the line that says,  
11 "Stonehenge will include," dot, dot, dot? Do you  
12 see that?

13 A. Yes.

14 Q. So is ldoor part of the Stonehenge  
15 program?

16 A. No.

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 Q. So that is an option under consideration

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1 currently with respect to Project Stonehenge but  
2 has not yet been finally decided. Is that  
3 correct?

4 MR. ENSIGN: Objection.

5 I'd like to speak to the witness to  
6 determine whether it's possible to respond to  
7 these questions without divulging attorney-client  
8 communications.

9 MR. NAKAMURA: Okay. Let's take a break.

10 THE VIDEOGRAPHER: Off the record at  
11 1:57 p.m.

12 (Off the record, 1:57 p.m. to 2:05 p.m.)

13 THE VIDEOGRAPHER: Back on the record at  
14 2:05 p.m.

15 BY MR. NAKAMURA:

16 Q. [REDACTED], have you had a chance to  
17 confer with your counsel?

18 A. I have.

19 Q. [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

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1 MR. ENSIGN: Objection.

2 I'm going to instruct the witness not to  
3 answer the question.

4 Further, the document or the exhibit that  
5 is currently in front of the witness contains  
6 unredacted privileged communications and  
7 privileged work product with respect to Project  
8 Stonehenge and Single Click.

9 We are working on redactions and will  
10 provide a redacted version of this exhibit to the  
11 department shortly.

12 MR. NAKAMURA: So I want to understand  
13 this, Mr. Ensign. On page 1 of this document,  
14 ending Bates Number 025, Google has made a  
15 redaction. Is that correct?

16 MR. ENSIGN: That is correct.

17 MR. NAKAMURA: And so your claim is,  
18 despite having produced this to us in redacted  
19 form, you have failed to make other redactions  
20 that you believe are properly made pursuant to  
21 attorney-client privilege. Is that correct?

22 MR. ENSIGN: You are correct.

23 MR. NAKAMURA: And I would like to know  
24 what the lawyer -- who the lawyers are who are

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1 involved in Project Stonehenge with respect to  
2 this particular communication such that it is  
3 proper to claw it back.

4 MR. ENSIGN: [REDACTED], you can provide  
5 the name of the attorney.

6 A. Ted Lazarus.

7 Q. And, [REDACTED], you testified, however,  
8 that you spoke to Mr. Lazarus in the summer of  
9 2020, yet this document predates that.

10 A. Yes. So I believe my dates were probably  
11 off.

12 Q. And this is a question for your counsel.

13 MR. NAKAMURA: I am confused because at  
14 the bottom of page 2 at the section we were  
15 discussing, there was only business information  
16 there, no legal information that was conveyed.

17 Mr. Ensign, I'd like to know your basis  
18 for clawing back what appears to entirely lack  
19 [REDACTED]'s email, any legal advice, and only  
20 business advice.

21 MR. ENSIGN: Work product. Project Single  
22 Click and Stonehenge were prepared in response to  
23 the regulatory process and the antitrust matters.

24 MR. NAKAMURA: And is it your position



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1 today that any and all information relating to  
2 Project Stonehenge is properly protected by the  
3 work product privilege?

4 MR. ENSIGN: I can't take a position with  
5 respect to all information, but with respect to  
6 the information contained in this document, yes.

7 MR. NAKAMURA: And so my last question on  
8 this is, your justification for clawing this  
9 particular email back and other sections of this  
10 document is that the legal advice came from  
11 Mr. Ted Lazarus. Is that correct?

12 MR. ENSIGN: It is work product developed  
13 upon legal advice from Ted Lazarus.

14 MR. NAKAMURA: Okay. We will sequester  
15 this document and await your production.

16 I'm sorry. Mr. Bitton, did you have  
17 something?

18 MR. BITTON: Yeah. I think there may well  
19 have been and I think [REDACTED] testified that  
20 that's the name he recalled but that there were  
21 other lawyers involved as well.

22 MR. NAKAMURA: And how long until we get a  
23 reproduction of this document?

24 MR. ENSIGN: We are working on it now and

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1 we anticipate we'll produce it today and as  
2 quickly today as possible.

3 MR. NAKAMURA: And I would request that  
4 you provide me with a redacted PDF copy to the  
5 extent I'm able to question the witness on this.

6 MR. ENSIGN: Understood.

7 MR. NAKAMURA: Thank you.

8 BY MR. NAKAMURA:

9 Q. [REDACTED]  
10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]  
15 [REDACTED]  
16 [REDACTED]  
17 [REDACTED]  
18 [REDACTED]  
19 [REDACTED]  
20 [REDACTED]

21 Q. Thank you.

22 MR. NAKAMURA: Gordon, could you please  
23 put in the chat Tab 44, please.

24 Q. And [REDACTED], we've placed in the chat